

AMENDED IN SENATE JUNE 28, 2005

AMENDED IN ASSEMBLY MAY 19, 2005

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 709

Introduced by Assembly Member Wolk

February 17, 2005

An act to ~~amend Section 18680 of the Elections Code, and to~~ amend Section 83124 of, and to add Section 85301.5 to, the Government Code, relating to the Political Reform Act of 1974, *and calling a special election to be consolidated with the statewide special election of November 8, 2005, to take effect immediately as an act calling an election.*

LEGISLATIVE COUNSEL'S DIGEST

AB 709, as amended, Wolk. Candidate controlled ballot measure committees.

(1) ~~Under existing law, a person who is entrusted with money or things of value for the purpose of promoting or defeating any initiative, referendum, or recall petition or any measure that has qualified for the ballot is deemed a trustee and is prohibited from appropriating the money or things of value to any use or purpose not in the due and lawful execution of the trust. Under existing law, a violation of this provision is punishable by a fine not exceeding \$5,000, or by imprisonment in the state prison for 16 months or 2 or 3 years or in a county jail not exceeding one year, or by both the fine and imprisonment.~~

~~This bill would state that expenditures in support of the trustee's candidacy for state elective office or in opposition to a candidate running for the same elective state office are not within the due and lawful execution of the trust. The bill would also state that expenditures of this money on paid advertising that refers to or features the trustee or a candidate running for the same office as the trustee are not within the due and lawful execution of the trust. By expanding the application of a crime, this bill would impose a state-mandated local program.~~

~~(2) Existing provisions of the Political Reform Act of 1974 prohibit contributions to any candidate for statewide elective office, except a candidate for Governor, totaling more than \$5,000 per election, as adjusted each January of every odd-numbered year.~~

~~This bill would prohibit a person from making a contribution or contributions that exceed this limitation to any committee controlled by a candidate for elective state office that is established for the purpose of supporting or opposing state or local ballot measures during the entire period of time the candidate controls the committee. The bill would specify that if a candidate controls more than one ballot measure committee that makes expenditures in support of, or in opposition to the same ballot measure, total contributions to all the committees from the same contributor shall not exceed the contribution limitation.~~

~~(3)~~

~~(2) Under other existing provisions of the Political Reform Act of 1974, a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.~~

~~This bill would apply this provision to a ballot measure committee that is primarily formed to support or oppose a ballot measure or measures and is controlled by a candidate for elective state office and would exempt from this provision a general purpose ballot measure committee.~~

~~(4) Existing provisions of the Political Reform Act of 1974 make a violation of the act subject to administrative, civil, and criminal penalties.~~

~~This bill would impose a state-mandated local program by imposing potential criminal penalties on persons who violate the provisions of this bill.~~

~~(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~(6)~~

(3) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act by a statute that becomes effective only when approved by the electors, or, alternatively, by a bill that furthers the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, would *call a special election to be consolidated with the statewide special election scheduled for November 8, 2005. It would require the Secretary of State to submit the provisions that amend the Political Reform Act of 1974 of the bill for approval to the voters at a statewide that election, as specified.*

~~(7)~~

~~(4) This bill would declare that it is to take effect immediately as an act calling an election.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 18680 of the Elections Code is~~
2 ~~amended to read:~~
3 ~~18680. Every person who is entrusted with money or things~~
4 ~~of value for the purpose of promoting or defeating any initiative,~~
5 ~~referendum, or recall petition, or any measure that has qualified~~
6 ~~for the ballot is a trustee of the money or things of value. If a~~
7 ~~person wrongfully appropriates the money or things of value to~~
8 ~~any use or purpose not in the due and lawful execution of the~~
9 ~~trust, the person shall be punishable by a fine not exceeding five~~
10 ~~thousand dollars (\$5,000), or by imprisonment in the state prison~~
11 ~~for 16 months or two or three years, or in a county jail for a~~
12 ~~period not exceeding one year, or by both the fine and~~

1 imprisonment. The following expenses are within the due and
2 lawful execution of the trust:
3 (a) Securing signatures to initiative, referendum, or recall
4 petitions:
5 (b) Circulating initiative, referendum, or recall petitions.
6 (c) Holding and conducting public meetings.
7 (d) Printing and circulating prior to an election:
8 (1) Specimen ballots.
9 (2) Handbills.
10 (3) Cards.
11 (4) Other papers.
12 (e) Advertising.
13 (f) Postage.
14 (g) Expressage.
15 (h) Telegraphing.
16 (i) Telephoning.
17 (j) All salaries and expenses of:
18 (1) Campaign managers.
19 (2) Lecturers.
20 (3) Solicitors.
21 (4) Agents.
22 (5) All persons employed in transacting business at
23 headquarters or branch offices, if the business transacted is
24 related to promoting or defeating an initiative, referendum, or
25 recall petition, or any measure that has qualified for the ballot.
26 (k) Maintaining headquarters and branch offices.
27 (l) Renting of rooms for the transaction of the business of an
28 association.
29 (m) Attorney's fees and other costs in connection with
30 litigation where the litigation arises directly out of any of the
31 following:
32 (1) Activities related to promoting or defeating an initiative,
33 referendum, or recall petition, or any measure that has qualified
34 for the ballot.
35 (2) The enactment, by the initiative process, of any ordinance,
36 charter amendment, statute, or constitutional amendment.
37 (3) An election contest or recount.
38 (4) A violation of state or local campaign, disclosure, or
39 election laws.

1 ~~The amendment of this section by adding subdivision (m)~~
2 ~~thereto, made at the 1991-92 Regular Session of the Legislature,~~
3 ~~does not constitute a change in, but is declaratory of, the existing~~
4 ~~law.~~

5 ~~(n) Expenses for food, clothing, shelter, and other personal~~
6 ~~needs of the trustee are not within the due and lawful execution~~
7 ~~of the trust. However, expenses for travel and necessary~~
8 ~~accommodations for the trustee are within the due and lawful~~
9 ~~execution of the trust, if the travel and accommodations are~~
10 ~~related to promoting or defeating an initiative, referendum, or~~
11 ~~recall petition or any measure that has qualified for the ballot.~~

12 ~~(o) Expenditures in support of the trustee's candidacy for~~
13 ~~elective state office or in opposition to a candidate running for~~
14 ~~the same elective state office are not within the due and lawful~~
15 ~~execution of the trust.~~

16 ~~(p) Expenditures spent on paid advertising that refers to or~~
17 ~~features the trustee or a candidate running for the same elective~~
18 ~~office as the trustee are not within the due and lawful execution~~
19 ~~of the trust.~~

20 ~~SEC. 2.—~~

21 ~~SECTION 1.~~ Section 83124 of the Government Code is
22 ~~amended to read:~~

23 83124. The commission shall adjust the contribution
24 limitations and voluntary expenditure limitations provisions in
25 Sections 85301, 85301.5, 85302, 85303, and 85400 in January of
26 every odd-numbered year to reflect any increase or decrease in
27 the Consumer Price Index. Those adjustments shall be rounded to
28 the nearest one hundred dollars (\$100) for limitations on
29 contributions and one thousand dollars (\$1,000) for limitations
30 on expenditures.

31 ~~SEC. 3.—~~

32 ~~SEC. 2.~~ Section 85301.5 is added to the Government Code, to
33 ~~read:~~

34 85301.5. (a) A ballot measure committee that is not
35 controlled by a candidate for elective state office is not subject to
36 this section. A ballot measure committee shall become subject to
37 this section once it becomes controlled by a candidate for
38 elective state office. A ballot measure committee that is
39 controlled by an individual who ceases to be a candidate, as set
40 forth in Section 82007, shall no longer be subject to this section.

(b) Notwithstanding subdivision (c) of Section 85310, a person shall not make any contribution or contributions that, in the aggregate, exceed the contribution limit set forth in subdivision (b) of Section 85301, to any committee controlled by a candidate for elective state office that is established for the purpose of supporting or opposing state or local ballot measures during the entire period of time the candidate controls the committee. If a candidate controls more than one ballot measure committee that makes expenditures in support of, or in opposition to, the same ballot measure, total contributions to all the committees from the same contributor shall not exceed the limit in subdivision (b) of Section 85301. A ballot measure committee controlled by a candidate for elective state office shall not accept any contribution prohibited by this section.

(c) A ballot measure committee primarily formed to support or oppose a ballot measure or measures and controlled by a candidate for elective state office is subject to the postelection fundraising limitations of Section 85316. A general purpose ballot measure committee is not subject to the postelection fundraising limitations of Section 85316.

(d) The contribution limit applicable to a ballot measure committee controlled by a candidate for elective state office under this section is subject to periodic adjustment pursuant to Section 83124.

~~SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

~~SEC. 5. The Secretary of State shall, pursuant to subdivision (b) of Section 81012 of the Government Code, submit Sections 2 and 3 of this act for approval to the voters at the first statewide election held following adoption of this bill by the Legislature, notwithstanding Section 9040 of the Elections Code.~~

SEC. 3. (a) A special election is hereby called to be held throughout the state on November 8, 2005. The election shall be

1 consolidated with the statewide special election to be held on
2 that date. The consolidated election shall be held and conducted
3 in all aspects as if there were only one election and only one
4 form of ballot shall be used.

5 (b) Notwithstanding Section 9040 of the Elections Code or any
6 other provision of law, the Secretary of State shall, pursuant to
7 subdivision (b) of Section 81012 of the Government Code, submit
8 this act for approval to the voters at the November 8, 2005,
9 statewide special election.

10 SEC. 4. This act calls an election within the meaning of
11 Article IV of the Constitution and shall go into immediate effect.